

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

IN RE: STEVEN EUGENE PLUMMER, SR.
TRACY LYNN PLUMMER
Debtors

CASE NO. 20-31714
CHAPTER 13

TRUSTEE'S OBJECTION TO CONFIRMATION

COMES NOW the Chapter 13 Trustee, Debra L. Miller, and for her Objection to Confirmation states as follows:

- 1) Trustee objects to confirmation as the Plan fails to meet the best interests of creditors test under 11 U.S.C. §1325(a)(4) as:
 - (a) A minimum distribution of 83% of the nonexempt 2020 tax refunds is required.
- 2) Trustee objects to confirmation as the disposable income test has not been met under 11 U.S.C. § 1325(b)(2) and (3) as:
 - (a) Debtors are not paying their full disposable income as the Plan payment is \$2904.93 with net disposable income per Schedule J of \$3358.36.
 - (b) Schedule I does not include the full household income and needs to be amended to include the guardian subsidy they receive.
 - (c) Line 45 of the means test is \$2910.16 and a distribution of \$174,609.60 is therefore required to general unsecured creditors.
The Plan is not funded for this amount.

(d) Line 9(b) of the means test is overstated as it includes payments to multiple creditors with liens avoided through the Plan. These are not actual expenses.

(e) Schedule J includes expenses of \$700.00 for electricity and heat, and \$335.00 for student loans. Trustee has requested but not yet received proof of the expense for electricity and heat, and the Plan does not provide for the direct payment of student loans, so this is not an actual expense.

(f) The Plan proposes for the Debtors to retain all tax refunds. Refunds over the prorated amount must be turned over as required by *Marshall v. Blake*, 885 F.3d 1065 (7th Cir. 2018).

WHEREFORE, the Trustee objects to confirmation of the proposed Plan for failure to meet the requirements of 11 U.S.C. §1325(a) and (b).

Dated: January 20, 2021

Respectfully Submitted,
/s/ Katherine Iskin #33679-71
Katherine Iskin, Staff Attorney
Debra L. Miller, Chapter 13 Trustee
P.O. Box 11550
South Bend, IN 46634
(574) 254-1313

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the attached was sent on January 20, 2021

By U.S. Mail to the Debtors and Debtors' Attorney as follows:

Debtors: Steven and Tracy Plummer, 24679 Edison Road, South Bend, IN 46628

By electronic e-mail to the Debtors' Attorney and the U.S. Trustee

Debtors' Attorney: Ann Kalb

U.S. Trustee: ustpregion10.so.ecf@usdoj.gov

/s/ Suzanne Hall